

**Board for Judicial Administration
June 20, 2008
AOC SeaTac Office
SeaTac, Washington**

Members Present: Chief Justice Gerry Alexander, Chair; Judge Vickie Churchill, Member-Chair; Judge Marlin Appelwick; Judge Rebecca Baker; Judge C.C. Bridgewater; Judge Ronald Culpepper; Judge Sara Derr; Judge Susan Dubuisson; Judge Tari Eitzen; Judge Deborah Fleck; Mr. Jeff Hall; Judge Michael Lambo; Ms. Paula Littlewood; Judge Robert McSeveney; Judge Marilyn Paja; Judge Glenn Phillips; and Judge Christine Quinn-Brintnall.

Guests Present: Mr. Wayne Blair, Ms. Roni Booth, Judge Harold Clarke III, Ms. Kathy Martin, Ms. Marti Maxwell, Justice Susan Owens, and Judge Kevin Ringus.

Staff Present: Ms. Ashley DeMoss, Ms. Beth Flynn, Dr. Tom George, Ms. Katrin Johnson, Mr. Dirk Marler, and Mr. Chris Ruhl.

The meeting was called to order by Chief Justice Alexander. Chief Justice Alexander introduced and welcomed the new BJA members: Judge Ronald Culpepper, Judge Michael Lambo, Judge Tari Eitzen, and Judge Glenn Phillips.

May 16, 2008 Meeting Minutes

It was moved by Judge Appelwick and seconded by Judge Derr to approve the May 16, 2008 BJA meeting minutes with the following correction: correct the spelling of the word “principals” on the bottom of the first page. The motion carried.

Change/Clarification to the Interpreter Services Funding Conditions

Mr. Ruhl reported that some small revisions to the interpreter funding conditions are being proposed that require the approval of the BJA.

- One substantive change being proposed is in response to some confusion that occurred with a few trial courts regarding how much they should pay contract interpreters who are paid by the hour. The Interpreter Commission wants to ensure that all interpreters who are being paid by the hour (including contract interpreters) are being paid the equivalent of \$50/hour.
- Another substantive change is the provision to limit travel reimbursement to a reasonable amount. One court on the Olympic Peninsula was paying for a certified Spanish court interpreter to travel from Pasco, despite the fact that there are ample certified Spanish court interpreters available in the Puget Sound area.

- Washington currently certifies court interpreters in nine languages: Arabic (Levantine and Egyptian), Cantonese, Korean, Laotian, Mandarin, Russian, Somali, Spanish, and Vietnamese. However, three of the languages do not currently have any certified interpreters (Arabic, Mandarin and Somali). Similarly, there are a number of registered languages in which no registered interpreters are yet available. A provision was included in the original Funding Conditions allowing courts to be reimbursed for interpreters qualified from the bench in languages where no Washington certified or registered interpreters exist, through December 31, 2008. An additional year is needed (until December 31, 2009) to try to get more interpreters certified and registered in these needed languages.

Judge Fleck asked if there has been any increase in certified and registered interpreters as a result of the increased interpreter services funding. Mr. Ruhl explained that they are currently in a testing cycle. Ms. Johnson stated that written exam applicants are up from 150 last year to 209 this year. They did have candidates pass the written exam in Arabic, Mandarin and Somali so it is possible they will soon have certified interpreters in those languages if they pass the oral exam. Next year, the Interpreter Program will implement a more robust training program for applicants, including Spanish training in Central Washington.

It was moved by Judge Paja and seconded by Judge Fleck to approve the revised Washington State Interpreter Services Funding Conditions/Payment Structure. The motion carried.

Interpreter Commission Report

Justice Owens reported on the following Interpreter Commission activities.

Planning Retreat: Last summer, the Commission held a two-day planning retreat in Wenatchee. During the retreat, the Commission members set long-term goals of service improvements and determined strategic priority projects for increasing service capacity over the next two years.

Interpreter Staff: The Commission received a grant from the State Justice Institute to hire a consultant to work with courts regarding interpreter issues. A full-time AOC staff person was also hired to help local courts create and implement language assistance plans (LAPs); and there are currently ten collaboration sites (representing 56 different courts) receiving funding for interpreter services reimbursement. Part of the funding requirement is that courts will provide interpreter data to AOC which can be used in the future to better plan for interpreter and funding needs.

Reciprocity: The Interpreter Commission recently approved a change giving reciprocity to Oregon and federal interpreter certification, and is currently considering a broader general policy regarding reciprocity with other member states of the Consortium for State Court Interpreter Certification.

Forms Translation: The Commission is working in collaboration with Access to Justice representatives on forms translation. The Commission has identified which languages are needed (Spanish, Russian, Vietnamese, Chinese and Korean) and should have all statutory forms translated in those languages and available on the Washington Courts Web site by late July.

Interpreting Bench Cards: The Commission mailed laminated bench cards regarding courtroom interpreting to all Washington State judges to assist judges with interpreting issues. Judge Churchill suggested e-mailing the information to all the judges so they will have the information electronically.

Trial Court Operations Funding Committee Report

Judge Clarke reported that there are nine members on the Trial Court Operations Funding Committee and they have been working on funding proposals regarding jury funding, state funding of district and municipal court judge salaries, and state funding of interpreters. The Committee met in person three times and the rest of their meetings have been by conference call. Judge Clarke reviewed each of the Committee's funding proposals with the BJA.

State Funding of Interpreters: For this proposal, a decision package was created by the Committee. The package goes forward from pilot funding to a fully-funded proposal using a reimbursement model in which the court is paid back for reimbursable expenses.

State Funding of District and Municipal Court Judge Salaries: The Committee proposed legislation for this request because they are asking the Legislature to put state funding into play regarding funding of district and municipal court judge salaries. In order to get to the 50% mark, they set out a stair step approach of a 10% per year increase in state funding. The proposed legislative language indicates this funding is in addition to Trial Court Improvement Account funds so it is clear they are separate.

Increased State Funding of Jury Expenses: This proposal includes draft legislation that requests state funding to begin on the second day of service for daily juror pay and on day one for mileage reimbursement. This is also a reimbursement model requiring courts to submit their requests for reimbursement at least quarterly.

Judge Appelwick asked if the Committee rejected the idea of reimbursing jurors for their actual hours of service. He stated that he doesn't know if the statute is explicit that jurors are not employees. If not already disposed of in statute, he suggested clarifying that jurors are not subject to employment laws.

Mr. Hall explained that the Committee's recommended minimum wage standard represents a change from the previous recommendation of \$60 a day for jury service.

Judge Churchill mentioned that the advantage of tying the reimbursement amount to the current minimum hourly wage is that 50 years from today the BJA will not be looking at this again because there is a built-in escalator.

Judge McSeveney stated that the funding piece is great but he has a concern regarding inefficiencies based on how each court sets up its jury system. Frequently, jurors are called into court and then sit because of lack of preparation by attorneys. Those jurors will need to be paid. Judge Clarke stated that the Committee did consider best practices when creating their proposals. That particular issue was a discussion piece that was intentionally left for other groups to consider.

Judge Churchill suggests the wording of "at least quarterly" in section (2) on page 1, should read "at least on a quarterly basis." Judge Clarke indicated that as a Committee they will review the proposals because there is still some clean-up to do.

Chief Justice Alexander stated that the Supreme Court plans to include the interpreter funding in their budget proposal and the other two pieces are policy issues which will be submitted to the Legislature for action.

This item will be on the BJA agenda next month for action.

Revision to General Rule 29(k) Judicial Services Contracts

Judge Paja stated that the District and Municipal Court Judges' Association established an ad hoc committee to review General Rule 29(k) and decide if revisions were needed.

Judge Ringus reported that the ad hoc committee regarding GR 29(k) was established because of Judge McSeveney's question as to the need for GR 29(k). Judge Ringus expressed his appreciation for Judge McSeveney's question because during his time on the bench, he has had five different mayors/city managers. As a judge, he was asked by some of the mayors/city managers to sign letters of agreement and each letter became more complex than the previous letter. He realized that if he wanted to receive the same benefits as other city

managers, he needed to have a contract. The contracts stated he needed to comply with the city's procedures and he had to push in order to receive benefits. That is the reason the ad hoc committee decided to limit this rule change to salary and benefits. The rule change does appear to be necessary and until an RCW is created outlining how judges are paid at every level, there will be arguments about judicial benefits in cities around the state every four years.

Judge Paja added that the rule change makes it clear that judges are employees and contracts should cover salary and benefits only.

[Note: After the formal meeting, Judge Quinn-Brintnall suggested that the revision to GR 29(k) at the first sentence provide: "A *part-time* judicial officer..." The DMCJA members consulted had no objection.]

This item will be placed on the action calendar of the July BJA agenda.

Court Budget Reporting Group Report

Ms. Booth gave an update on the Court Budget Reporting Group. The group is comprised of Ms. Booth, Ms. Telma Hauth, Mr. Paul Sherfey, Judge Gordon Godfrey, Judge David Svaren and Mr. Ramsey Radwan. The group met twice prior to the appointment of the two judges and their next meeting, in July, will be the first meeting of the full group.

The focus of the group is budgeting for interpreters, marriage dissolution, jurors and juror management. They expect to report back to the BJA regarding their budgeting plan in early fall.

Courthouse Facilitator Summary

Dr. George, from the Washington State Center for Court Research, presented information regarding a study that was conducted at the Center regarding self-represented litigants in family law matters. The summary report was included in the meeting materials and the link to the full report is <http://www.courts.wa.gov/wscctr/?fa=ccr.publications>.

Washington's courthouse facilitators began serving the public in 1993 in seven pilot sites and they currently operate in 35 counties. The last time the program was evaluated was in 1993.

The Center surveyed facilitators and gathered basic general program information; collected visit data from facilitators and customers in Kitsap, Lewis, Thurston, and Yakima counties; surveyed judicial officers and program administrators; and surveyed family law litigants (unassisted, facilitator-assisted, attorney-represented). The Center also analyzed family law case processing information

from the Judicial Information System during the review process. The survey resulted in the following information being obtained:

- There are approximately 57,000 individual sessions annually.
- The average length of the appointments are 30-60 minutes.
- Reasons for meeting with the courthouse facilitator varied. 60% of the litigants stated they couldn't afford an attorney, 29% didn't feel the case was that complicated, and 18% were unsure if an attorney was necessary. The reasons varied by income level.
- Regarding customer satisfaction, the following percentage of respondents agreed with the statements listed below:
 - Meeting was helpful: 98%
 - I know what I need to do next: 98%
 - More prepared for court appearance: 91%
 - Understood instructions given: 94%
 - Treated with respect: 98%
 - Meeting was worth the cost: 94%
 - More trust and confidence in the courts: 82%
 - I know where to go to get legal advice: 91%
- 97% of judicial officers and administrator surveyed reported a positive impact from the program.

Results of the litigants' court experiences survey indicated that facilitator-assisted litigants reported more positive court experiences, had a greater sense that justice was served, and had more trust and confidence in the courts in comparison to unassisted litigants.

Some of the issues and concerns that were uncovered during the survey were funding, legal advice questions, and training.

BJA Trial Court Coordination Grants Report

Mr. Hall reported on the Trial Court Coordination Committee which is chaired by Judge Stephen Holman. The Committee provided a written report outlining five recommendations which will receive funding for improvements in trial courts: Black Diamond, Bonney Lake, and Buckley municipal courts: in-custody hearings (\$14,000); King: jury summons response (\$28,172); Pierce: volunteer coordination (\$15,000); Skagit: regional staff training (\$6,715); and Columbia: in-custody hearings (\$11,000).

BJA Long-Range Plan

Judge Churchill reported that the BJA Long-Range Planning Committee is trying to take a long-term, proactive approach to revising the BJA Long-Range Plan. In order to do this properly, they will need more assistance from AOC.

The revised plan was distributed in the materials with all the revisions marked. Some of the highlights are:

- There are some revisions to the objectives of Goal 1.3 – The Board for Judicial Administration will Foster and Develop Leadership Within the Judicial Branch (page 5 of the Plan). The Committee made the revisions in response to the need to develop leadership skills for future leaders in the judicial associations and BJA.
- Added a new task under Goal 4.3 – Secure Adequate, Stable and Long Term Funding for the Washington Courts (page 13) to show how state legislation impacts court workload.

Mr. Hall clarified that this plan was developed for the BJA, not the judiciary. The plan will be voted on at the next BJA meeting.

Additional Judge for Division II

Judge Bridgewater reported that the Court of Appeals is in need of a new Division II judge because of an increase in caseload. He noted that the letter regarding the additional judge distributed with the meeting materials is revised as follows: strike out “This issue has been presented to JIJIC and was accepted without objection.” The Justice In Jeopardy Implementation Committee does not accept nor approve additional judge requests but the request was presented as information to the Committee.

The decision to request another judge in Division II has been vetted for a year. In an ideal situation, 70 cases is an appropriate number for a judge per year. A judge could handle 80 cases a year, but not over a sustained period of time. Currently, Division II judges have in excess of 114 cases per year. The workload more than justifies another judge.

There is also an internal desire to have a timeline of two months between the filing of the last brief and the oral argument. Now, Division II is looking at a seven month delay which is just not acceptable.

The BJA is being asked to approve and go forward with this judge request in legislation.

It was moved by Judge Culpepper and seconded by Judge Paja that the BJA support the Court of Appeals, Division II request for an additional judge in the 2009 session of the Legislature through BJA request legislation. The motion carried.

Access to Justice (ATJ) Board

Mr. Blair reported that the ATJ Conference was held in Vancouver, Washington two weekends ago. There were 345 registrants which is the most they ever received for an annual conference. The conference was well-attended and a success.

Washington State Bar Association (WSBA)

Ms. Littlewood stated that the WSBA Board of Governors (BOG) met the day prior to the ATJ/Bar Leaders Conference. Mr. Salvador Mungia, from Tacoma, will be President-Elect for 2008-2009 and Mr. Anthony Gipe was elected Governor-At-Large with his term commencing in September 2008. Other new Governors whose terms will commence in September 2008 are: Mr. Loren Etengoff, Mr. Patrick Palace, Ms. Catherine Moore, and Mr. Brian Comstock.

The Judicial Selection Task Force recommendations (both majority and minority reports) were heard by the Board at the June meeting. By a vote of 10-3, the BOG adopted the minority report to keep the judicial election system as it is.

The Bar Leaders Conference was held in conjunction with the ATJ Conference. During the conference, Mr. Blair received the first-ever WSBA/ATJ Board Norm Maleng Leadership Award which was established to recognize those who embody the statesman-like qualities that characterized Norm Maleng's leadership.

This year, during the BOG retreat, they will conduct a comprehensive review of the WSBA bylaws. They will also look at their budget during the July meeting and begin discussion of the license fee amounts for FY10 and FY11. The WSBA is currently looking at a deficit for its FY09 budget; however, this shortfall was anticipated given the increase in rent and growing costs for staff salaries and benefits. In addition, license fee increases for the last nine years were only 2%, so the increases were not keeping up with inflation. The WSBA is currently reviewing all programming to find ways to reduce expenses and upcoming issues of the *Bar News* will discuss the current budget situation in an effort to educate the membership about these issues.

Reports from the Courts

Supreme Court: Chief Justice Alexander reported that the Supreme Court is wrapping up the spring term and after that, the Court will not be hearing cases until

September. They are making a big effort to reduce the time it takes to process petitions for review. Their goal is three months. They have already knocked off about two months of the time it takes and hopefully, early in the fall, they will reduce the time even more.

Three Supreme Court justices are up for election: Justice Mary Fairhurst, Justice Charles Johnson, and Justice Debra Stephens. Justices Fairhurst and Johnson have opponents and Justice Stephens' opponent withdrew from the race.

The Supreme Court travels to hear oral arguments three times a year (once each term to another locale). They will be at Washington State University in early September and they are looking forward to their visit.

Court of Appeals: Judge Bridgewater stated that the new Court of Appeals Chief Judges are: Judge Ann Schindler, Division I; Judge Marywave Van Deren, Division II, and Judge John Schultheis, Division III.

Superior Courts: Judge Eitzen reported that the SCJA held their Long-range Planning and Board meetings in Chelan and are fine-tuning their five-year plan.

Courts of Limited Jurisdiction: Judge Paja shared that the DMCJA held their elections in early June. She is still working on some of the association's committee appointments. Judge Paja spoke to the Association of Washington Cities about how local government can speak to their courts regarding issues. In recognition of some of the leadership and succession planning issues, not just in the judiciary but also with court clerks and administrators, the DMCJA included funding for scholarships in their budget for clerks and administrators to take some leadership training.

Other Business

August Meeting: Mr. Hall reported that, at this time, there is not a need to hold the August meeting. It is normally canceled if there is no anticipated business for the agenda. The BJA sets the meeting dates and needs to approve the cancelation of the August meeting if that is something the BJA members would like to do.

It was moved by Judge Quinn-Brintnall and seconded by Judge Paja that there not be an August 2008 BJA meeting. The motion carried.

There being no further business, the meeting was adjourned.